

# **PLANNING COMMISSION**

## **ACTION MINUTES**

**TUESDAY, AUGUST 16, 2005**

### **1. ROLL CALL:**

Chair Parsons called the meeting to order at 7:00 p.m. at the Belmont Council Chambers.

Present, Commissioners: Parsons, Dickerson, Frautschi, Gibson, Long, Wozniak, Horton

Present, Staff Interim Community Development Director de Melo,  
(ICDD), City Attorney Zafferano (CA), Recording  
Secretary Flores (RS)

### **2. AGENDA AMENDMENTS:**

Chair Parsons stated a request to move Item 6A on the calendar to be heard before the Public Hearings. There were no disagreements from the Commission.

**3. COMMUNITY FORUM:** None

### **4. CONSENT CALENDAR:**

**4A. Planning Commission Minutes of 6/21/05 and 7/5/05**

**MOTION:** By C Long, seconded by C. Frautschi, to accept the  
Planning Commission Minutes of June 21<sup>st</sup> and July  
5<sup>th</sup>, as received via email.

**Ayes:** Long, Frautschi, Gibson, Horton, Wozniak, Dickenson,  
Parsons

**Noes:** None

**4B. Resolution Denying a Floor Area Exception and Single-Family Design Review at 2223 Coronet Boulevard (Appl. 2005-0007)**

**MOTION:** By C Horton, seconded by C Frautschi, to adopt the resolution denying the Floor Area Exception and Single-Family Design Review at 2233 Coronet Boulevard (App. 2005-007)

**Ayes:** Horton, Frautschi, Gibson, Long, Wozniak, Parsons

**Noes:** None

**Abstain:** Dickenson

VC Dickenson stated he was not present at the meeting when the item was discussed.

**Motion passed 6/0/1**

Chair Parsons noted that this item may be appealed to the City Council within 10 days.

**6. NEW BUSINESS:**

**6A. Review of the Alameda de Las Pulgas Median Island Landscape Plan.**

Mike Bridges introduced himself as the Interim Director of Parks and Recreation. He stated that the proposed median island is at Alameda, Arthur and Covington, and that the property was

donated by the Pantano Family. He added that the Central and Cipriani Neighborhood Associations and the Congregational Church have been working together to design and landscape the property, and their recommendation has been reviewed by the Parks and Recreation Commission.

David Haufman, representing the Central Neighborhood Association, gave a slide presentation and stated the objectives of the project.

- Would like to improve landscape around the kiosk. Kiosk will not be affected in anyway except to possibly paint it.
- Goals for landscaping are low maintenance, drought-tolerant, and deer-resistant are the key requirements.
- Will look similar to what the church did a year and a half ago across the street from the kiosk.
- Will not block side lines for traffic
- May replace the concrete barriers adjacent to the fire hydrant.

Mr. Haufman added that they are working with the various neighborhood association and other organizations, trying to raise as much money as possible without burdening the City for capital cost. They received a \$2800 grant from a community foundation , work of two pro bono landscape architects, \$400 from the Park Boosters toward purchase of the bench, the water district donated a water meter, and the Historical Society has pledged a plaque. The Congregational Church has promised to take care of the installed landscaping for two years from completion, and they're hoping the City will pick up the maintenance after that. He added that in addition to the groups mentioned previously, the Public Works Department and Parks and Recreation Departments have reviewed the plans. He described the features of the project while showing the slides. Mr. Haufman estimated that from the time they break ground the project will take 4-6 weeks to complete. There has been no opposition from the neighbors around the kiosk and the community has been very supportive of this project.

Chair Parsons stated that the plant materials are good but feels the project ignores the fact that people tend to take the shortest route to get where they're going, and the proposed location of the path does not take that into consideration. Mr. Haufman stated that that issue had been discussed at length and since there is no crosswalk they felt the proposed location would be the safest. Responding to Chair Parsons' suggestion that the bench should face the other way, Mr.

Haufman explained that the proposed location seemed more shielded from the traffic coming up the hill on the Alameda and would also be shielded by small trees.

C Wozniak commented that the landscape is nice, but suggested that they reduce the number of plants as some of the plants they have chosen self-seed and could overtake the area.

C Frautschi noted that when the Pantano's donated the parcel, one of their requirements was to have a sign put there with the Pantano's name and phone number. Since there is an ordinance against that, he asked how they propose to handle that issue. Mr. Haufman responded that they hope get that resolved with Mr. Pantano prior to the Council meeting. Mr. Bridges added that he has not had contact with Mr. Pantano but hopes to do that before the September 13<sup>th</sup> Council meeting.

Mr. Haufman added that they plan to discuss the pedestrian safety issue with Public Works before the Council meeting.

Mr. Haufman mentioned that at the Parks & Recreation Commission meeting the structural integrity of the kiosk was discussed and whether the landscaping would have any impact on it. They are trying to get an architect who is familiar with historical buildings to look at it. He also stated that if the kiosk is painted it would probably be a neutral color similar to what is already there.

C Long disclosed that he is the President of the Central Neighborhood Association and C Frautschi disclosed that he has also been involved in the project and had originated the idea. Chair Parsons credited C Frautschi for his efforts in getting the project going.

Judy King, member of the Parks and Recreation Commission, advised that the Commission would prefer the donation of the sign not be included, only recognized that it was approved by City Council in accepting the property. She asked that the sign be pulled from the approval and dealt with separately by the City Council.

Chair Parsons asked that they take note of the Commission's comments and give consideration to possibly extending the walk.

**MOTION: By C Long, seconded by C Wozniak, supporting the staff report as written, and referring the project to City Council for approval, with the inclusion of the Commission's comments.**

**Ayes: Long, Wozniak, Gibson, Frautschi, Horton, Dickerson, Parsons.**

**Noes: None**

**Motion passed 7/0**

## **5. PUBLIC HEARINGS:**

### **5A. PUBLIC HEARING – 905 S. ROAD**

To consider a Variance of a Single-Family Design Review to construct a 3,060 square foot single-family residence as below the zoning district permitted 3,076 square foot for the site.

APN: 045-152-550; Zoned: R-1B (Single Family Residential)

CEQA Status: Categorical Exemption per Section 15303

Applicant/ Owner: Simmie Graves

ICDD de Melo summarized the staff report that the elevation has be revised as well as the floor plan for this home and stated this has been to the Commission numerous times. He also stated that the applicant has made changes to his design as requested by Commission and would like to make a presentation regarding the new design.

Simmie Graves, applicant, presented a slide show of the redesign and the areas and studies he conducted. He stated that the house will be of a basic modern Craftsman design, adding that he had received a letter of endorsement of the design from Paul deSure, an architectural historian.

Responding to C Wozniak's question regarding the footprint of the house, Mr. Graves stated that this is a single-story unit that is wider but more horizontal and stepped down on the site so it blends into the hill side.

C Gibson asked about the proposed elevation and confirmed that stairs are included in the design.

C Long asked if there is a way to mitigate the timing of the construction of the piers to offset the burden on the neighborhood and residents nearby, especially the convalescent home. Mr. Graves answered that it would be up to the Contractor. He noted that he will be discussing other options for drilling with his geotech engineer and will do what they can to mitigate the noise. He confirmed that there is a 6' natural wood fence around three sides of the property.

C Frautschi had concerns about getting the heavy equipment down the hill. Mr. Graves stated that they are not sure as of yet; they would like to stage it from a different part of the property off of Hill Street which would be a strategic location and will not block traffic. He also stated he would need an agreement from the property owner to do so. C Frautschi asked what protections would be provided for the Belmont Vista; i.e., will the heavy equipment be cabled. There are concerns about mishaps with the heavy equipment since the slope is 42° and asks how he intends to prevent a tragedy. Mr. Graves stated the contractor that he selects will be an experienced contractor who has built on hillsides before, he will have insurance requirements in place to make sure the contractor is operating safely, and will coordinate with the Public Works Department and inform the neighbors about things that they might be concerned about.

C Frautschi asked if there will be a bond or a line of credit offered for protection against a catastrophic mishap. Mr. Graves stated he does not have a plan at this time but will discuss it with his bank, as he will need to build safety into his construction loans.

Chair Parsons opened the public hearing.

Katherine Burger introduced herself as a neighbor on South Road. She made two points:

- Prefers a sloping driveway versus a driveway bridge.
- Asked to whom she should address concerns she has regarding this property.

Chair Parsons stated that a decision will be made at that meeting and all questions and concerns should be stated at that time. He also stated that if she is unhappy with their ruling, she may file an appeal to the City Council within 10 days after they vote on the final resolution, which probably will be at the next meeting.

Marylou South, General Partner of Paradigm Health Care, owner of Belmont Vista, stated the history of Belmont Vista on the hillside adjacent to 905 S. Road and is concerned about the soil in the areas. She stated the soil contained excessive water and lacks stability, as the Belmont Vista was asked to be redesigned due to the soil. Her concern is of a landslide, as the proposed property is 30 feet from the side of the Belmont Vista that is glass, feared that the sick and frail elderly residents on that side of the building would have no protection if there was a landslide, flood or if a heavy piece of equipment came down the hillside. She felt the following questions need to be answered before the Commission approves the project:

- How will the applicant get the heavy construction equipment down to the site? It is her understanding that there will be no access from any of the neighbors, which leaves the street for a staging area.
- What assurance is there that the underground spring will not turn the hill into a river of mud, which will run directly through the glass doors and into the rooms of the Belmont Vista?
- What precautions does the applicant plan to assure that a run-away construction machine will not crash into their building, and will the applicant accept this liability?
- How long will it take to build and how long will the sick and elderly have to tolerate the noise and dust of the construction?

Ray Burger, neighbor on South Road, welcomed Mr. Graves to the neighborhood and stated his concerns that the proposed garage, since it is on a blind curve, is very dangerous. He is concerned about the traffic flow and engineering. He stated that if the property had a sloping driveway it might be safer. He recalled that in 1992 Mr. Ugarte, Engineer for the City of Belmont at that time, promised a sidewalk in front of his house, but to this day they do not have a sidewalk. He reiterated the need for sidewalks due to the dangerous heavy traffic conditions. He

stated there should be an easement provided on the east side of South Road as far possible so pedestrians on the South Road would have some sort of sidewalk.

**MOTION: By C Gibson, seconded by C Frautschi, to close the public hearing.**

Regarding a sidewalk easement, ICDD de Melo stated that any permanent structure that is located within the public right-of-way requires a permanent encroachment permit, which will automatically be addressed by the City Council. Non-permanent structures do not require an encroachment approval. He stated that staff has worked with the applicant relative to this issue and he was agreeable to some sort of area so that there is a nice transition as you walk along South Road going up the hill so that one is not on the edge of the road, and he will continue to work with the applicant to further define that as part of the final project plans. He added that, based on the City's aerial and GIS maps, the Gonzalez fence is right on the property line but within their property and not in the City's right-of-way. Responding further to the Commission's questions, ICDD de Melo stated that if the Commission approves the project, they would enact a condition of approval for a construction management plan to include types of equipment, fences for debris, etc. and they will ascertain that the appropriate geotechnical recommendations are included for the project so that everyone feels a comfort level. There will be construction monitoring, such as periodic inspections by the building staff, grading inspections by the Public Works Department, and the final geotechnical report for the project would be further enhanced as part of the building permit for the project. Mr. Graves would have to provide full structural details for his home for review by staff.

C Frautschi asked about construction hours. ICDD de Melo stated that the current noise ordinance is 8:00 am – 5:00 pm, Monday through Friday, and 10:00 am – 5:00 pm on Saturday, with no construction on Sundays or specified Holidays. Any hours less than that would have to be agreeable to the applicant.

C Long expressed concerns about the stability of South Road and asked if Public Works would require an applicant building a property along that side of South Road to shore up the retaining walls and the actual undergirders of the street. ICDD de Melo stated that any disturbance of any City right-of-way would have to be repaired in kind, but if there are portions of the City's right-of-way that are failing, it becomes difficult to make an applicant do that, but in working with the Public Works Department they can craft conditions relative to making sure that the project itself does not further worsen the existing conditions off-site. He also confirmed that this project as proposed is within the 28' height requirements and also that the 6' fence around the perimeter, as long as it's not within the setback area and within 40' of the street intersection, is permitted by code.



C Gibson commented that there is no driveway that can be built to this property that does not require construction in the public right-of-way so that a Variance is necessary in order to build here. He felt it is dangerous to walk on South Road and was not sure it was a good idea to have a sidewalk there, and felt that they have to go with the judgment of the geotechnical professionals while doing everything possible to insure the safety of this operation while it is in progress, and recommended that they do everything possible to do the staging off of Hill Street. He did not believe the house will be prominent from the Train Station and was sorry that the project had expanded in footprint; he would have preferred the higher façade.

C Wozniak stated she likes his new design now rather than the previous design. She stated for the record that she feels the house will be visible from the Train Station and the Ralston Overpass at the freeway and added the following comments:

- The house is too big and they really do not need to get the maximum number of square feet.
- She would like to see a completion bond.
- She would like to see a sidewalk on South Road as it is a path for children to go to school and that it might condition drivers to drive more slowly.

C Horton agreed that this is a better design and feels it is a very prominent house that will be visible from the freeway overpass. She added that there is a lot more for the applicant to do when he gets into plan check and that there should be conditions of approval that puts barriers in place so that things don't slide into the adjacent property. She agreed with Wozniak regarding kids walking to school, or walking to the bus stop, and felt that a sidewalk is necessary.

Chair Parsons felt that the design does credit to the applicant and to the site, has no problems with the project, and felt the bridge driveway is the safest with the least amount of disturbance to the hillside.

C Long felt this was a great example of the process working. Regarding the sidewalk he stated that dozens of people run, walk and occasionally stroller up and down South Road every day, and thinks when they have an opportunity to mitigate that risk they should take the opportunity to do so.

#### Dislikes:

- He was never a fan of the driveway bridge and wanted something hugging the hillside but the applicant explained why that could not be done and made the bridge more aesthetically pleasing.
- The noise disruption to Belmont Vista.
- Staging issues.

#### Likes:

- Defined style.
- Balconies
- The applicant's willingness to come back before the Commission yet one more time and is hopeful that the house will be worth more than the extra money that they spent by coming back to the Commission again and again.

C Frautschi asked the applicant to again show the renditions of his building and then read his comments into the record. He felt they had reached a design that has the unified craftsman theme and that conforms to the goals and policies required for the findings for the Single-Family Design Review and the DTSP. A problem for him was the statutory standards language regarding a Variance in that a Variance can be granted only when it deprives such property of privileges enjoyed by other properties in the vicinity. The issues of the driveway bridge and the definition of "vicinity" are a stumbling point for him since the nearest driveway bridge is a mile or more away and there are no such structures in the area covered by the Downtown Plan. He also had an issue with Variance Finding E and he had hoped that the Council would clarify and give the Commission more direction on this point. He still questioned the wisdom and potential safety considerations in granting this Variance but reluctantly supported the granting of the Variance though he wholeheartedly supported the new and creative building design and thoughtful landscape plan. He also suggested that they consider getting the laundry room closer to the bedrooms.

C Gibson suggested that the concrete barriers that are used for road construction would be ideal to protect the downslope and mentioned a hollow plastic version that can be filled with water on-site.

Hearing a consensus from the Commission, ICDD de Melo agreed to bring back for further review by the Commission a final Resolution for approval with Conditions of Approval, making sure that the tree issues are appropriately addressed in terms of the number of trees that are coming out, the final landscape plan, a construction management plan, hours of operation – excluding work on Saturdays – a letter of credit bond and liability insurance. Staff will send the Geotech plans to Cotton Shires to confirm, but the Commission will defer that issue to staff's purview as part of the Building Permit Plan Check.

Chair Parsons declared a recess at 8:30 p.m. Meeting resumed at 8:50 p.m.

## **5B. PUBLIC HEARING – 2700 MONSERAT AVENUE**

To consider a Variance Floor Area Exception, Conditional Use Permit and Single-Family Design Review for 1,415 square foot addition to an existing 2,670 square foot single family residence for a total of 4,085 square feet that is greater than the maximum permitted 2077 square feet for this site. The proposal includes construction of a new secondary dwelling unit for the existing single-family dwelling (Appl. No. 05-0017).

APN: 043-321-460; Zoned: R-1B (Single-Family Residential)

CEQA Status: Categorical Exemption per Section 15301

Applicant/Owner: Craig Howard and Shurong Niu

ICDD de Melo summarized the staff report site condition on page 3 of staff report, concluding that if the Commission and staff ~~are~~ *is* unable to support the issues for the Floor Area Exception, staff ~~as~~ *is* unable to support the other project entitlements. A draft resolution was attached to the Staff Report based upon the fact that they are unable to make Findings 1, 2 and 3 of the FAR. He had a letter from the applicant's attorney that describes their concerns relative to the staff analysis. According to the file, there are permits for a home built in 1980 described as a 2,150 square foot home with a 450 square foot garage. There are no records of construction beyond the 1980 approval to build a home that was 2,600 square feet whether it was built by the applicant or a previous property owner. The applicant is seeking relief to allow that square footage of his home. There has not been a revaluation for this home since 1980 and there is no approval for permits for this home beyond the 1980 approval. If they do not have permits to allow for the additional square footage staff deems ~~that~~ it not to exist. 2,670 is the approval for this home, anything beyond needs a floor area exception. **The** Chief Building Official and the

Code Enforcement Officer provided photos of this home taken in May 2004 showing that the home is in a state of reconstruction. The applicant applied for permits to “legalize” the work, allow the rooms that have been done, but that then triggered staff to review the issue relative to the approved floor area for this home. ICDD de Melo answered questions from the Commission and restated that the home is currently under various stages of reconstruction and that is why the applicant was present – to “legalize” the work that has already been done. If the Commission is unable to make the findings to approve the floor area exception or any other entitlements associated with this project, the Commission would ~~have~~ **then adopt** a resolution of denial for the project **and** the applicant would have the opportunity to appeal that decision to the City Council. If the Council does not overturn the Planning Commission’s decision the matter is done. If we get to a point where there is no further legal action on this project, all the habitable square footage that has been constructed out of the bounds of the original approval ~~zone~~ would have to be removed.

CA Zafferano stated that the Commission should consider in making that decision whether an approval of a Variance for something which might ultimately have to be removed is a direction the Commission wants to go. In other words, if the Commission was to disapprove the Floor Area Exception, and it was upheld by City Council, the City will be entitled to file an action for code enforcement. He recommended that the Commission should consider how their decisions would be affected if there is a subsequent order to remove portions of the residence which exceed the floor area ratio were otherwise attributed to setbacks.

Craig Howard introduced himself as the applicant. He pointed out that he recently purchased this home and the previous owner had embarked on improvements but had not completed them. He noted that upon receiving his disclosure package, he noticed the violations for work being done to the home without permits but that the work was up to code. He also stated that the previous owner had built a room downstairs which was meant for one of his relatives to reside. He took down some of the drywall and had the structural, plumbing and electrical work checked, and then added insulation and replaced the drywall. He confirmed that in the lower floor the previous owner had added a bathroom, a sink and water hookup and a plug-in for a hotplate. He stated that since he received his Stop Work Order, construction was halted. He questioned the staff report as follows:

- How is it detrimental to public safety and nearby properties? Stated that the house has been there 20 years, and in fact he has taken requests from neighbors and changed some items cosmetically, such as planting some trees and improving the drainage, painting the fence.
- Stated that his house is not larger than other homes in the area and his house fits in with the neighborhood. 2838 **Monserat** is considerably larger than his home and houses across the way are **also** bigger.

- Concerns of privacy. Stated his house does not block any neighbors' view or invade on their privacy, and if it did, his neighbors would tell him.
- Regarding the second unit, previous staffers had suggested that he file an application to request a large floor area, and then suggested that it be called a second unit.
- Also noted the concerns for the stairs, which will be fixed and are needed to access the back yard.

C Frautschi asked Mr. Howard why he had not thought about getting permits prior to construction. He responded that he was under the impression that if you were adding something to the house you needed a permit but the work that needed to be done was not additive; he was just asking about things that needed fixed.

Responding to C Wozniak, Mr. Howard stated that he paid \$700,000 for his house in ~~1973~~ **2003**. He assumed that the reason they were able to get it for a good price is because it had been on the market for quite awhile, and the condition was not that good and it was sold "as is."

C Horton asked if the realtor never explained that work done without a permit is never accepted – that you should have gone to the City before buying to make sure that it was acceptable. Mr. Howard stated "no," and according to the disclosure checklist, everything was all good and on code. In hindsight, he wished he had done all that. He had thought that doing stuff without permits ~~meat~~ **meant** that it is a red flag for you to make sure that it was done properly. He had no knowledge about size restrictions. The evil had been done and his current dilemma is how does he make everyone happy.

C Frautschi noted that earlier in his testimony Mr. Howard stated that he had signed a document during escrow to close on the house, he said it stated there was unpermitted work done, then later on he stated that he continued to carry out work and remodel the home. C. Howard stated that the work he had done was replacing items that he had removed and that he continued to work on the house.

Chair Parsons opened the public hearing.

Frank Gonsalvez, 491 Old ~~Country~~ **County** Road, introduced himself and stated that the applicant hired his office to develop “as-built” drawings to his existing house to perhaps enable the staff and Planning Commission to better read and study the notes regarding the application. The plan depicts the so-called non-conforming additions as outlined by staff, all of which was created~~d~~ by the former owner some 25 years ago. He drafted some notes to expound upon some of the items that are non-conforming:

- The stairs on the west side of the house are conforming; the only non-conforming part is those that exceed more than 30 inches above the grade. It can be easily fixed and the cost will be absorbed by the owner.
- The other side yard encroachments entail two different corners of the house; one corner extends a maximum of 19 inches into the setback, the other corner extends into the setback approximately 40 inches. The combined encroachment is 60 square feet, which will cost the current owner \$70,000.00 to fix.
- The crawl space addition was created by the ~~pervious~~ **previous** owner and can be removed only after expending \$90,000.00.

He added that the value of the house cannot justify those costs.

Mr. Gonsalvez asked if these additions were in conformance in 1980 and if there was a building permit for these additions, adding that records are not available, and as such the suppositions remain unsubstantiated. He asked how many existing residences in Belmont with down-hill slopes are non-conforming. For the record, he stated that the applicant conducted two neighborhood outreach meetings and there was not a voice expressing an objection to the applicant or to the City. He concluded that when the additions were made in 1980, no neighbors views were affected nor are they impacted today and that when the additions were made in 1980 the residence’s exterior elevations and exterior building bulk were never changed; the same remains true today. The adjacent neighbor’s privacy was never affected in 1980 nor should it be in question today. There were never any significant grading concerns created in 1980 and there remains none today. The changes made 25 years ago were never detrimental to the public health and safety; why should it be any different today.

Chair Parsons asked Mr. Gonsalvez if the construction was based on his design and if he advised his client that it was illegal to have space that wasn’t permitted in his house. Mr. Gonzalez replied that it was not his responsibility since it had been done 20 years previously and “the damage has been done,” and that he was not hired to advise his client – he was hired to develop “as built” drawings.

Susan Cohn introduced herself as the applicant's attorney. She confirmed that each Commissioner received a letter making the site available for a visit and ascertained that everybody looked at the outside of the house.

CA Zafferano explained to Ms. Cohn that this is not an opportunity for her to cross examine the Planning Commission about what they did or did not do but is an opportunity for the applicant and his team to make a presentation. He will not allow the Planning Commissioners to be cross examined.

Ms. Cohn referred to her letter regarding problems with the staff report, and noted that the problems had not been addressed or corrected by the staff presentation. She stated that the applicant is going to request that this matter be returned to staff for a revised report. She stated that they were not ~~there~~ **before the Commission** because Mr. Howard did not get whatever permits he might have needed for whatever work he was undertaking, but that the only thing before the Commission was a floor area exception and a secondary unit. She felt that the fact that somebody started to do something that they shouldn't have done was totally irrelevant and pointed out that the permits may well have existed but that permits could not be located for that time period. She summarized by stating that this is not a request for a 4,000 sq.ft. house; it's an application for a primary and secondary unit and it should have been analyzed that way and was not. She questioned how the 17 properties were picked and why the lot sizes were not all the same and why they didn't look across the street. She believed the subject house fits in perfectly well with its neighborhood. She also mentioned two letters that were handed out during the meeting and did not feel the complaints were a basis to dismiss a consideration of a secondary unit. She asked to reserve the right to return to the podium after public comments, and stated that they were prepared accept the delay that would be ~~occasioned~~ **caused** by returning to **the Commission with a** proper staff report using correct figures with the full consideration of a secondary unit.

C Wozniak asked staff whether a secondary unit would make any difference in a FAR exception. ICDD de Melo stated that it would be easier to address the issues associated with the secondary dwelling unit if the home was allowed to go to 3500 sq.ft. and there wasn't a floor area exception involved. He added that staff does not discount the fact that the City recently made changes to the secondary dwelling unit ordinance and ~~increased~~ **decreased** the threshold for allowing the second units to be built: ~~but~~ **however**, a key issue with ~~that~~ **the second unit ordinance changes** was making sure that development standards for the home are being met. In this case, a key development standard is not being met. The approved amount based on the original construction is 2670 square feet; anything above that requires a floor area exception, whether it is for a master bedroom, adding on to the existing kitchen on the main level, or for a new secondary unit. The floor area has been exceeded and that is staff's concern.

Chair Parsons re-stated the issue by saying that because of the slope on this property and the size of the lot, whether there's one unit on this property or a secondary unit and the primary unit, the maximum square footage allowed on this lot would be 2,077 sq.ft. ICDD de Melo added that part of their request for entitlements includes the floor area exception which in the staff report is the correlation – everything plays off of ~~that~~ ***the floor area exception*** and ***if*** the square footage cannot be approved beyond the 2670 – it doesn't matter whether it's a second unit or not. The home exceeds the development standards for the lot relative to floor area.

C Wozniak asked if staff had checked the tax assessor's records to determine if permits had been forwarded to the County, which is standard operating procedure. ICDD de Melo stated that they have a MetroScan printout, which is information culled directly from the County of San Mateo, which indicates that this is a 2300 square foot single-family home with a 2-car garage, which is typically 400 square feet. If there had been additions approved via permit the information would have been routinely forwarded to the County so they could re-value the property and the square footage number would go up. He added that they looked at the MetroScan information on the 17 properties, cross-checked it with the building files for each one, to substantiate whether there were other homes that got larger via the approval of additional square footage to get to the numbers that are in the staff report. C Wozniak followed up by noting that the applicant is not paying property taxes on 2700 square feet. ICDD de Melo stated that the printout indicates a square footage of 2700 square feet and the applicant is paying property taxes based on a price of \$700,000, which substantiates the number that was give by the applicant.

Chair Parsons opened the public hearing. No one came forward to speak.

**MOTION: By C Frautschi, seconded by C Long, to close the public hearing. Motion passed.**

Responding to a question from C Long, ICDD de Melo confirmed that the application for the secondary unit came through after the approval by City Council of the new secondary unit procedures and added that there had been previous applications for this home to legalize improvements but staff had some concerns about the actual plans submitted. Eventually the applicant withdrew his application, hired an architect to prepare as-built drawings for the project as submitted. They have been working on the request for entitlements since March of 2005 based upon a revised submittal and it falls under the new secondary unit provisions. C Long stated that it is very clear in the City's code that a non-conforming property will not meet the threshold for a secondary unit approval. ICDD de Melo added that if they do not have permits to allow any of the construction, including ~~the~~ ***a*** secondary unit, staff deems it not to exist.



C Frautschi stated that the reason they ask an applicant why they weren't involved in the permitting process is to get some understanding of what happened, and wondered why the "experienced contractor" who built the bathroom under the garage did not get permits. Referring to Mr. Gonsalvez's statement that the work with the encroachments would cost the applicant \$160,000, he suggested they think about the fact that they got the house for \$700,000. He concluded by stating that a floor area exception is a key entitlement sought by the applicant and if they can't find for the floor area exception they can't go on. He had difficulty with three of the four findings, and based on his site visit, presented information and staff analysis he would recommend denial of the floor area exception negating any consideration of the Variance, CUP or Single-Family Design Review.

VC Dickenson thanked staff for putting together a very thorough presentation.

C Gibson said that he had some empathy for the applicant, although he couldn't comprehend why he didn't understand the permit process. He added that he did not appreciate the lecture they got from the attorney and felt that every one of the points she made was erroneous. **He** could not see exceeding the 2,077 sq.ft., legal, non-conforming size.

C Wozniak stated that she stopped feeling sympathy for the applicant because other construction was started after he purchased the house and felt that ICDD de Melo and his staff did an excellent job on the report. She was ready to vote against this exception.

C Horton commented that this lot just could not support a 4,000 sq.ft. house in that it intensifies the use of the space, adding that they have already set precedent in this town regarding the denial of the ~~legal~~ **illegal** expansions that were done by previous owners. She could not see why they should start granting a special privilege now, and suggested that the attorney talk to the realtor and the previous owner to find out exactly why this happened. So **she** would vote for **denial of the project**.

Chair Parsons echoed everything that had been said and felt that it was a good staff report. The fact is the lot does not support that size house with or without a secondary unit according to the zoning code and he could not support it.

**MOTION: By C Frautschi, seconded by C Long, to adopt the Resolution denying a Floor Area Exception, Variance, Conditional Use Permit and Single-Family Design Review for 2700 Monserat Avenue (Appl. 2005-0017)**

**Ayes: Frautschi, Long, Gibson, Horton, Wozniak, Dickenson, Parsons**

**Noes: None**

**Motion passed 7/0**

Chair Parsons noted that this item may be appealed to the City Council within 10 days.

## **5C. PUBLIC HEARING – 1500 RALSTON AVENUE**

To consider a Conditional Use Permit, Design Review, Grading Plan, and Tree Removal Permit for Notre Dame de Namur University (NDNU) to modify the existing soccer/lacrosse field for the campus. The proposal entails replacement of the existing grass field with artificial turf, relocation of bleachers/seating areas and fencing, and removal of existing protected and non-protected trees for the site. The proposal also includes installation of new landscaping and trees for the reconfigured athletic field.

Appl. No. 05-0038; APN: 044-360-120; Zoned: PD (Planned Development)

CEQA Status: Categorical Exception per Section 15302

Maureen Freschet (Applicant)

Notre Dame de Namur University (Owner)

Commissioners Horton and Frautschi recused themselves as they live within 500' of the subject site.

ICDD de Melo summarized the staff report, noting that prior actions discussed on page 3 and discussion on pages 4 and 5 about the difference between Conceptual and Detailed Development Plans and the project analysis for this component of the University's master plan are key elements of the report. Staff could meet all of the findings in the affirmative for all four of the entitlements for the CUP to establish the DDP for the project as well as the individual design review entitlement for the work to be done on the field, the grading plan and the tree removal

permit for the loss of the one 35" cedar. Staff and the applicant were available to answer questions.

Noting that Ralston is designated as a scenic corridor in the General Plan, C Long questioned ICDD de Melo about the removal of the stand of 75' tall eucalyptus trees. ICDD de Melo explained that the applicant does not need a permit to remove the eucalyptus trees and that it is a type that the City is more supportive of removal than any other kind of tree. He added that it is the Commission's opportunity to waive these issues about the scenic corridor but that replacement plantings of Coast Redwood are more in keeping with the kind of plantings that they ultimately like to see in the City.

John Obleck, representing the applicant, explained that they are trying to repair an existing soccer and lacrosse field due to the conditions of the field. He explained that they would like to replace it with artificial turf, which is safer for the players, reasonable to maintain and that can support the team play without wearing out before the end of the academic year. And, heavy rains have impacted the field and made it a hazard to the players.

Drew Badesian, DRV Associates, presented background information on the proposed project, noting that they believe their plan addresses issues raised by neighbors by improving the environmental aspects of the field and balancing the cut and fill of earthwork on the site. He also explained why synthetic turf has become more popular throughout the entire educational system in the County and nationwide:

- Environmentally responsible and low maintenance
- Conserves water
- Eliminates noise and air pollution associated with mowing, aerating and lawn maintenance
- Eliminates fertilizer and pesticide use associated with weed control, resulting in a cleaner storm water system
- Cost effective
- Safer

Ian McClaine , Civil Engineer, reviewed the general design features of the field from a civil perspective. He discussed how the field will benefit the University and talked about the reconstruction they have planned for the University and the surroundings, such as site grading, retaining walls, landscaping, fencing and the properties and installation of the synthetic turf, and answered questions from the Commission.

Chris Ford, landscape architect, discussed the planned berm and described in depth the type and positioning of the trees and shrubs proposed for the area. He referred to an arborist's letter that stated that some of the current trees are in poor health and dangerous and should be removed, and answered questions from the Commission.

Henry Roth, representing the University, stated that he feels this new design and field was very well thought out and planned, the appearance along Ralston will be improved, and that it will be much safer for the students. The usage of the field will remain the same. He was not aware of any fire issues with regard to the synthetic turf and reiterated that it is expected to last 8 to 10 years, and that will reduce the noise pollution that is associated with upkeep on a normal field. He answered questions from the Commission.

Responding to C Wozniak, the athletic director stated that last Spring, because of the condition of the field, they closed it and transported the student athletes to off-campus practice sites because they felt the field was unsafe but that they would not be adding any teams or additional hours for practice.

C Wozniak asked if they would be open to an analysis by an acoustical engineer of the amplified noise from the bleachers. She would like an expert to tell her that the planned improvement is a solution to the noise issue. Dr. Obleck responded that they have had a number of iterations and they are up against a time constraint, and that the bleachers have been moved to a less noisy area, this plan puts the sound system on the other side away from the road, facing toward the campus, and that if it doesn't work there are adjustments that can be made. C Wozniak wanted to be clear that the noise is a real issue in the neighborhood. VC Dickenson stated that they could call out the volume levels and placement of speakers in the conditional use permit. She also stated that it would be really nice to save as many of the Eucalyptus trees as possible because it is going to take several years for the Redwoods to approach the height of the Eucalyptus.

Chair Parsons opened the public hearing.

Rick Frautschi introduced himself as being a neighbor and spoke in favor of the University's application for reconfiguration of the athletic field. He is concerned about the noise levels at the University and is not particularly happy with the proposed tree removal, but stated the Redwood trees will further their native plant planting goals but would like to see more than 18 replacement trees, either on the site or elsewhere on the University property or along the Ralston corridor.

Riza Horowitz introduced herself and stated she is also supportive of the University project but pointed out a few items:

- She believed the drawing was incorrect; the fence along Ralston is in two parts, not one as shown.
- Coffee Berry shrubs directly on Ralston are in terrible shape. She would rather have the Redwoods on the Ralston Avenue side of the fence.
- The noise from mowers and other loud machines is excessive several times a week and lasts for several hours a day.
- She thinks the turf sounds great but asked how it will be cleaned. She is concerned about the possible use of very loud leaf blowers and does not know if the proposed berm will keep their field any cleaner.
- She would like to see more greenery on Ralston Avenue and maybe even some larger trees and the removal of the Coffee Berry.
- She did not know where the Cedar tree is that is scheduled for removal.

Sam Horowitz, a neighbor across from the proposed development, was concerned about the noise levels. He agreed that the berm will improve the site visually and from a noise perspective, but asked how they intend to keep fans off the berms. He also asked that the Commission get real clarity about the placement and adjustment of the speakers. He also stated he felt the applicant should comply with the Belmont noise ordinance with regards to starting times of activities at the fields.

Jackie Horton, resident of Chula Vista Drive, stated that she supports the project, hates to see the Eucalyptus go but would prefer to see Redwood there. She agreed that the Coffee Berries are in poor shape but they do help eliminate the noise levels. Her issue had to do with two sources of

noise: bull horns and air horns. She is hoping that these will be outlawed by the City's noise ordinance, but asked the University to please ask their people to stop using them.

**MOTION: By VC Dickenson, seconded by C Long, to close the public hearing. Motion passed.**

C Long stated that the scenic corridor is a big issue as the trees being removed will make a dramatic difference. He did not know how to address that. Other issues are asking for more than 18 redwood trees and suggested 24 or more, and did not feel that they should abdicate having a shot at the noise levels right away. He felt it would be appropriate to consider adding some conditions, whether it is start times or bull horns, into this project, until and unless a noise ordinance supersedes them with more stringent rules and regulations.

C Wozniak also supported adding more Redwoods. Her main concern is noise and she would like to see a professional noise analysis. She would like to see conditions added that address all the concerns that the neighbors have about amplified noise, bull horns and noise happening very early in the morning. She would like to save the Eucalyptus as her view will be totally different if they are removed. She also addressed the intensity of use and would like a very detailed plan of usage on the field that takes into account all the uses of the field for games and practices. She also noted that there is nothing in the staff report that addresses parking adjacent to this field. ICDD de Melo stated that parking focuses on intensity of use and they do not believe intensity of use will increase relative to this project.

C Gibson stated that the Cedar tree is the only protected tree and that it will not be missed. He likes Eucalyptus as long as they are on somebody else's property. If they are dead or about to fall over they have to be removed but if there is some way to save some of them he would want them to consider it. He thinks the solution to the noise issue is not necessarily an expensive analysis, it is trial and error. You get somebody up on the hill with a cell phone and try it at various locations.

VC Dickenson liked the suggestion of putting the bleachers on the other side, and felt that the University did an incredible job at the neighborhood meeting of listening to the surrounding residents, with the exception of the amplified noise. He felt they could add some conditions to possibly have a sound engineer set up and spec it out to make sure that it minimizes the echo effect. He asked Mr. Ford what would be a fair number of Redwoods to add into the

grouping. Mr. Ford stated that they could add additional Redwoods and come up with a density of 15-18 feet on the center, or 24 to 25 trees.

Chair Parsons stated that he did not think it was ever the intent of the tree ordinance to say that we should cut down all eucalyptus trees but that the intent was that we shouldn't be planting any more. He was not sure that the 80" trees are allowed to be cut down under the tree ordinance, and asked staff to check into that. He feels the Ralston scenic corridor needs to be protected and is having a problem with having those trees pulled down when he thinks there is a solution to thinning them out and making them safer, and perhaps working the berm around them some way. He does not believe that 18 Redwoods for 30 something is a fair trade, especially considering the size and where they are on the scenic corridor, and suggested other places where they could add new landscaping to make the corridor even more scenic. He agreed that the Coffee Berry shrubs and the sprinkler system need to be looked at. He also noted that there is a gap on the school side of the fence and where there is an option for more screening of a shrub type, and suggested that they might ask that a landscape plan come back to them that looks at some of these things. He agreed that they needed a better detailed plan on the usage and operating hours of the field, and would like to add limits on bull horns and air horns to the Conditions of Approval. He suggested a solid fence around the equipment storage area, and that a revised landscape plan be brought back for review that brings the landscaping down further in either direction and perhaps increases the density as well as upgrading the Coffee Berries.

C Gibson felt that the University people heard the comments about bull horns and so forth. VC Dickenson added that once the University sends out a memo to the Director of the Athletic Department everybody underneath it will resonate loud and clear.

**MOTION: By C Long, seconded by C Wozniak, to adopt the Resolution approving a Conditional Use Permit and associated Detailed Development Plan, Design Review, Grading Plan and Tree Removal Permit for Norte Dame de Namur University at 1500 Ralston Avenue, with the additional conditions that the 24" box Coast Redwoods will be increased and a final landscape plan will be brought before the Planning Commission at a future date, with a re-look at the Coffee Berry situation and the sprinklers associated with them, the addition of shrubs between the Coffee Berry and the trees and that the number of trees be increased to no less than 30. (Appl. 2005-0038)**

Dr. Obleck came to the podium to state that there is a requirement in lacrosse games that air horns be used as part of the signaling or refereeing part of the play. This would occur on

Saturday afternoons and occasionally on Sundays. ICDD de Melo stated that he can work with the applicant relative to defining the days that these kinds of noise-making equipment would be used as part of the field. He could bring back a final set of Conditions for approval by the Commission, which will also give staff time to research the original CUP.

VC Dickenson asked if it would be possible for the Commission to give clear direction to staff so that they could write the conditions of approval and approve the final landscape plan without bringing them back to the Commission. C Wozniak felt that that would be circumventing the usual process of the Commission approving the final conditions and the landscape plan and if there were some misunderstandings they would be living with this for the rest of time. C Gibson concurred that they really need to see it.

**Ayes: Long, Gibson, Wozniak, Parson**

**Noes: Dickenson**

**Recused: Horton, Frautschi**

**Motion passed 4/1/2**

A representative of the applicant asked if this action prevents them from doing any grading prior to approval of this landscape plan. ICDD de Melo stated that the project is a sum total of the entire action associated with what the Commission reviewed and they do not have an approval yet, which does not then imply approval to take out any building or grading permits. The representative stated that because of the time delay he was afraid they will not do the project, which is less environmentally friendly to the community as well as impacting the university.

## **7. REPORTS, STUDIES, UPDATES, AND COMMENTS:**

ICDD de Melo informed the Commission that there will be a consultant firm, LSA, assisting for the time he is away, and that a permanent Associate Planner will start on September 7.



VC Dickenson reported that the Permit Efficiency Task Force has set a tentative date of September 14<sup>th</sup> to produce a product to bring to the Commission and Council.

C Horton noted that she will not be able to attend the Commission meeting on September 20<sup>th</sup>.

**8. PLANNING COMMISSION LIAISON TO CITY COUNCIL MEETING OF  
TUESDAY, AUGUST 23, 2005**

Liaison: Commissioner Parsons

Alternate Liaison: Commissioner Horton

ICDD de Melo announced that the August 23<sup>rd</sup> Council meeting has been cancelled.

**8. ADJOURNMENT:**

The meeting adjourned at 11:50 p.m. to a regular meeting on Tuesday, September 6, 2005 at 7:00 p.m. at Belmont City Hall, One Twin Pines Lane, 2<sup>nd</sup> Floor Council Chambers.

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Carlos de Melo

Interim Planning Commission Secretary

*CD's of Planning Commission Meetings are available  
in the Community Development Department.  
Please call (650) 595-7416 to schedule an appointment.*